

ERIC WILTON BURTON,

Petitioner,

v.

MATTHEW CATE, Secretary of California  
Department of Corrections and Rehabilitation,

Respondent.

Civil No. 08cv0325-LAB (POR)

**ORDER DENYING MOTION TO  
COMPEL DISCOVERY**

**[Document No. 180]**

On July 28, 2010, Petitioner filed a Motion to Compel Discovery of “material exculpatory documents” by S. Jones. (Doc. 180.)

“A habeas petitioner, unlike the usual civil litigant in federal court, is not entitled to discovery as a matter of ordinary course.” Bracy v. Gramley, 520 U.S. 899, 903-05 (1997); see Rich v. Calderon, 187 F.3d 1064, 1068 (9th Cir. 1999) (habeas petitioner does not enjoy presumptive right to discovery that a traditional civil litigant does). “Rather, discovery is available only in the discretion of the court and for good cause shown.” Rich, 187 F.3d at 1068. Discovery is appropriate where specific allegations before the court show reason to believe the petitioner, may, if the facts are fully developed, be able to demonstrate he is entitled to relief. Bracy, 520 U.S. at 908-09.

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2 In light of Petitioner's failure to present specific allegations showing he may, if the facts are  
3 fully developed, be able to demonstrate he is entitled to relief, the Court DENIES Petitioner's  
4 Motion to Compel Discovery without prejudice. Bracy, 520 U.S. at 908-09.

5 **IT IS SO ORDERED.**

6 DATED: August 20, 2010

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8 LOUISA S PORTER  
9 United States Magistrate Judge

10 cc: The Honorable Larry A. Burns  
11 all parties

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